

JOHN L. KRIEGER (Nevada Bar No. 6023)
JKrieger@LRLaw.com
LEWIS AND ROCA LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
(702) 949-8398 fax

Attorney for The Majestic Star Casino, LLC

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

THE MAJESTIC STAR CASINO, LLC, an
Indiana limited liability company,

Plaintiff,

v.

HAMBLEDON N.V., an unknown business
entity; SMART ANSWER, S.A., an unknown
business entity; and SUSANA GONZALES, an
individual,

Defendants.

CASE NO. 2:10-cv-01974-GMN-RJJ

**DEFAULT JUDGMENT AND
PERMANENT INJUNCTION**

Plaintiff The Majestic Star Casino, LLC (“Plaintiff”) having filed an application for entry of default judgment against Defendants Hambleton N.V., Smart Answer, S.A., and Susan Gonzales (“Defendants”), pursuant to Rule 55 of the Federal Rules of Civil Procedure, the Clerk of the Court having entered Default against Defendants on April 7, 2011, and, this Court having now given due consideration to Plaintiff’s application for such judgment as well as all papers, pleadings, and exhibits offered in support thereof by Plaintiff, the Court being further fully advised in the matter, it is therefore,

ORDERED, ADJUDGED and DECREED that Judgment be entered in favor of Plaintiff and against Defendants on all counts of Plaintiff’s Complaint; and, it is further ordered and

1 adjudged that said Judgment shall include the following specific findings of fact and awarding of
2 specific relief:

3 Plaintiff is the owner of certain FITZGERALDS Marks, which includes FITZGERALDS:
4 Registration No. 1,599,960 for casino services; FITZGERALDS: Registration No. 1,676,148 for
5 casino services; FITZGERALDS (stylized): Registration No. 1,677,084 for casino services; and
6 Nevada state trademark registrations for FITZGERALDS (collectively, “FITZGERALDS
7 Marks”);

8 Plaintiff has the exclusive right to use the FITZGERALDS Marks in connection with resort
9 hotel casino services;

10 Defendants registered and used the <fitzgeraldslasvegas.net> domain name with a bad
11 faith intent to profit therefrom;

12 Defendants linked the <fitzgeraldslasvegas.net> domain name to an online gambling
13 website entitled “Go Casino” that is marketed to players in the United States;

14 Plaintiff and Defendants are competitors on the World Wide Web;

15 Defendants’ use of the FITZGERALDS Marks in a domain name and casino website is
16 likely to cause confusion as to the source and origin of Defendants’ services;

17 Defendants’ use of the FITZGERALDS Marks in a domain name and casino website is
18 likely to dilute the distinctive value of the FITZGERALDS Marks through blurring and
19 tarnishment;

20 Defendants’ use of the FITZGERALDS Marks was intended to disrupt Plaintiff’s
21 prospective economic advantage and divert consumers from Plaintiff’s website to Defendants’;

22 Should Defendants’ use of marks identical or similar to the FITZGERALDS Marks
23 continue, Plaintiff will continue to suffer irreparable injury to the goodwill and reputation it has
24 established in the FITZGERALDS Marks for which award of damages would be inadequate;

25 Defendants have acted willfully in its infringement of the FITZGERALDS Marks; and

26 Defendants are liable for its infringement, unfair competition, and cybersquatting.

27 THEREFORE, IT IS HEREBY ORDERED that Defendants Hambledon N.V., Smart
28 Answer, S.A., and Susan Gonzales and their agents, servants, employees and/or all persons acting

1 in concert or participation with Defendants are hereby permanently enjoined from (1) making any
2 use of Plaintiff's FITZGERALDS Marks or confusingly similar variations thereof, alone or in
3 combination with any other letters, words, letter strings, phrases or designs, in commerce or in
4 connection with any business or for any purpose whatsoever (including, but not limited to, on
5 websites, in domain name, in hidden text and metatags), and from (2) registering or trafficking in
6 any domain names containing Plaintiff's FITZGERALDS Marks or confusingly similar variations
7 thereof, alone or in combination with any other letters, words, letter strings, phrases or designs;
8 and it is further

9 ORDERED that Defendants and their agents, servants, employees and/or all persons acting
10 in concert or participation with Defendants are permanently enjoined from using the
11 <fitzgeraldslasvegas.net> domain name or any other variation of FITZGERALDS Marks used in
12 any letter string in any domain name; and it is further

13 ORDERED that the registration for <fitzgeraldslasvegas.net> domain name be forfeited
14 and permanently transferred to Plaintiff; and it is further

15 ORDERED that the current registrar shall effectuate the domain name transfer
16 permanently transferring the registration on the <fitzgeraldslasvegas.net> domain name to
17 Plaintiff; and it is further

18 ORDERED that Defendants pay Plaintiff nominal damages for corrective advertising of
19 \$1,000.00; and it is further

20 ORDERED that Defendants pay Plaintiff statutory damages of \$100,000.00; and it is
21 further

22 ORDERED that Defendants pay Plaintiff's attorneys' fees and costs in the amount of Four
23 Thousand Six Hundred and Eighteen dollars and Eighty-Five cents (\$4,618.85); and it is further

24 ORDERED that the clerk shall exonerate Plaintiff's \$100.00 bond submitted to this Court
25 on November 15, 2010 and return said amount to Plaintiff's counsel; and it is further

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1 ORDERED that jurisdiction of this case shall be retained by this Court for the purpose of
2 enforcing this Judgment.

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4 **IT IS SO ORDERED** this 23rd day of May, 2011.

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8 Gloria M. Navarro
9 United States District Judge
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